

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VISUAL SUPPLY COMPANY,

Plaintiff,

v.

ADAM KHIMJI,

Defendant.

Case No. [24-cv-09361-WHO](#) (SK)

**REPORT AND RECOMMENDATION
ON MOTION FOR SANCTIONS**

Regarding Docket No. 20

Now before the Court is the motion for sanctions filed by Defendant Adam Khimji (“Defendant”) based on the subpoenas issued in *Visual Supply Co. v. CloudFlare, Inc., et al.*, 24-mc-80159-SK (N.D Cal.) (“Miscellaneous Action”). This motion was referred to the undersigned for a report and recommendation.

As an extension of his motion to quash filed in the Miscellaneous Action, Defendant Adam Khimji moves for sanctions against Plaintiff Visual Supply Company (“VSCO”) on the grounds that VSCO improperly sought and used the subpoenas issued in the Miscellaneous Action under the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(h) to pursue its trademark claims against Khimji. Khimji argues that, despite the fact that VSCO filed a declaration in the Miscellaneous Action attesting that the subpoenas would only be used for purposes of protecting against copyright infringement, VSCO improperly used the information discovered (Khimji’s identity) to bring only trademark infringement claims. Khimji’s motion for sanctions is another belated attempt to attack the subpoenas issued in the Miscellaneous Action. As discussed more thoroughly in the report and recommendation issued on the motion to quash in the Miscellaneous Action, Khimji’s effort to quash the subpoenas or otherwise attack the validity of those subpoenas is untimely. Moreover, on the merits, also discussed in the report and recommendation, Khimji fails to demonstrate that VSCO did anything improper in seeking those subpoenas or in using the

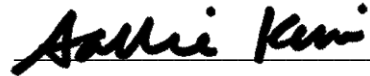
1 information discovered to file its claims in this action. Accordingly, the Court RECOMMENDS
2 DENYING Khimji's motion for sanctions.

3 In its opposition to the motion for sanctions, VSCO requests that the Court sanction Khimji
4 for bringing this motion. While the Court finds that Khimji's motion was not well supported, the
5 Court declines to recommend issuing sanctions against Khimji.

6 Based on the foregoing, the Court RECOMMENDS DENYING Khimji's motion for
7 sanctions. Any party may object to this recommendation within fourteen days of the filing date of
8 this order. *See* Fed. R. Civ. P. 72(b).¹

9 **IT IS SO ORDERED.**

10 Dated: June 25, 2025

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12 SALLIE KIM
13 United States Magistrate Judge
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27 ¹ VSCO filed objections to evidence Defendant filed with his reply brief. However, the
28 Court need not rule on those objections because the Court did not need to consider such evidence
in order to resolve the motion for sanctions.